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3 **STATE OF WASHINGTON**  
4 **DEPARTMENT OF FINANCIAL INSTITUTIONS**  
5 **CONSUMER SERVICES DIVISION**

6 IN THE MATTER OF DETERMINING  
7 Whether there has been a violation of the  
8 Mortgage Broker Practices Act of Washington by:

9 GOLDEN PACIFIC HOMES,  
10 dba Pacific Home Mortgage, and  
11 TAMMY L. MEYER, Designated Broker

12 Respondents.

NO. C-03-192-04-SC01

STATEMENT OF CHARGES AND  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO REVOKE LICENSE,  
IMPOSE FINE AND COLLECT INVESTIGATION  
FEE, AND PROHIBIT FROM PARTICIPATION IN  
THE INDUSTRY

13 **INTRODUCTION**

14 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial  
15 Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the  
16 Mortgage Broker Practices Act (Act). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent  
17 part. After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as  
18 of August 31, 2004, the Director institutes this proceeding and finds as follows:

19 **I. TENTATIVE FINDINGS OF FACT**

20 **1.1 Respondents:**

21 A. **Golden Pacific Homes**, dba Pacific Home Mortgage (Respondent Golden Pacific) was  
22 licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct  
23 business as a Mortgage Broker on August 18, 1997, and has continued to be licensed to date.

24 B. **Tammy L. Meyer** (Respondent Meyer), was named Designated Broker for Respondent Golden  
25 Pacific on November 10, 1999, and has continued as Designated Broker to date.

**1.2 Licensed Locations:** Respondent Golden Pacific is licensed to conduct the business of a Mortgage Broker at the following locations:

A. **Main Office:** 8115 SE 82<sup>nd</sup> Avenue  
Portland Oregon 97266

B. **Branch Office:** 8515 NE Highway 99  
Vancouver Washington 98665

**1.3 Records Location:** Respondent Golden Pacific has received approval from the Department to maintain its records at the following out of state location:

8115 SE 82<sup>nd</sup> Avenue  
Portland Oregon 97266.

**1.4 Failure to Pay Annual Assessments:** An annual assessment fee for each license location is due to the Department no later than the last business day of August for the year then ended. To date, the Department has not received the following annual assessments due from Respondents, totaling \$1061.72:

A. Payment of the main office annual assessment of \$530.86 for the year ended August 2004 was due to the Department no later than August 31, 2004.

B. Payment of the branch office annual assessment of \$530.86 for the year ended August 2004 was due to the Department no later than August 31, 2004.

**1.5 State Corporate License:** Respondent Golden Pacific was incorporated to do business in the State of Washington on June 29, 1990. The license of the corporation, issued by the Washington State Secretary of State, expired on June 30, 2002. To date, Respondents have not notified the Department of this change in standing with the State of Washington Secretary of State. In addition, Respondent Meyer has represented a number of times to Department personnel that she would reinstitute her corporate license.

**1.6 Master Business License:** Respondent Golden Pacific initially received its Master Business License in March 1998. The Respondent's Master Business License, issued by the Washington State Department of Licensing, was dissolved on September 23, 2002. To date, Respondents have not notified the Department of this change in standing with the State of Washington Department of Licensing. In addition, Respondent Meyer has represented a number of times to Department personnel that she would reinstitute her Master Business License with the State of Washington.

1 **1.7 Failure to Respond to Directives:** On April 27, 2004, the Department issued a Directive and  
2 Requirement by Certified Mail to Respondent Golden Pacific's licensed Main Office location, requiring  
3 Respondents to: (a) renew Respondent Golden Pacific's Master Business License with the Washington State  
4 Department of Licensing; and (b) renew Respondent Golden Pacific's corporate registration with the  
5 Washington Secretary of State. Respondents were required to comply with this Directive no later than ten days  
6 from the date of the Directive. To date, Respondents have failed to comply with this Directive. On March 17,  
7 2004, the Department issued a Directive and Requirement by Certified Mail to Respondent Golden Pacific's  
8 licensed Main Office location, requiring Respondents to: (a) renew Respondent Golden Pacific's Master  
9 Business License with the Washington State Department of Licensing; and (b) renew Respondent Golden  
10 Pacific's corporate registration with the Washington Secretary of State. Respondents were required to comply  
11 with this Directive no later than ten days from the date of the Directive. To date, Respondents have failed to  
12 comply with this Directive.

13 On December 3, 2003, the Department issued a Directive and Requirement by Certified Mail to  
14 Respondent Golden Pacific's licensed Main Office requiring Respondents to: (a) submit Certificates of  
15 Completion for Continuing Education; (b) renew Respondent Golden Pacific's Master Business License; and  
16 (c) renew Respondent Golden Pacific's corporate registration with the Washington Secretary of State.  
17 Respondents were required to comply with this Directive no later than ten days from the date of the Directive.  
18 Respondents submitted the required Certificates of Completion of Continuing Education, but to date,  
19 Respondents have failed to comply with the remaining requirements of this Directive.

20 **1.6 Failure to Notify DFI of Significant Developments:**

21 A. Respondent Golden Pacific's corporate license, maintained with the office of the Secretary of State,  
22 expired on June 30, 2002. To date, Respondents have not notified the Department of this change in  
23 Respondent Golden Pacific's status with the Secretary of State, nor has Respondent Golden Pacific  
24 renewed its corporate license.  
25

1       **B.** Respondent Golden Pacific's Master Business License account with the Washington State Department  
2       of Licensing was dissolved on September 23, 2002. To date, Respondents have not notified the  
3       Department of this change in Respondent Golden Pacific's Master Business License.

4       **C.** Respondent Golden Pacific's Vancouver Branch Office has apparently closed, as the telephone number  
5       listed in the Department's records for Respondent Golden Pacific's Vancouver Branch Office is no  
6       longer a valid telephone number for Respondent, and Respondent is no longer listed in the Vancouver  
7       telephone directory at the licensed location for the Vancouver Branch Office. To date, Respondents  
8       have not notified the Department of this change in status of Respondent Golden Pacific's Vancouver  
9       Branch Office.

10    **1.7    Operating at an Unlicensed Location:** Respondent Golden Pacific has changed its business location  
11    from its licensed address at 8115 SE 82<sup>nd</sup> Avenue, Portland Oregon, to 17665 SE McLoughlin, Suite F,  
12    Milwaukie, Oregon 97267 without notifying the Department of this change of business location.

## 13                                   **II. TENTATIVE CONCLUSIONS OF LAW**

14    **2.1    Requirement to Notify Department of Significant Developments:** Based on the Tentative Findings  
15    of Fact set forth in Section I above, Respondents are in apparent violation of WAC 208-660-150(1)(e), WAC  
16    208-660-150(2), and WAC 208-660-150(3)(b), (e) and (f) for failing to notify the Director in writing ten days  
17    prior to a change of the location of the licensee's principal place of business or any of its branch offices, and  
18    failing to notify the Director in writing within five days after a change in State master business license or  
19    standing with the state of Washington Secretary of State.

20    **2.2    Requirement to Comply with Directive:** Based on the Tentative Findings of Fact set forth in Section  
21    I above, Respondents are in apparent violation of RCW 19.146.235 for failing to comply with a directive within  
22    the time period established in the directive.

23    **2.3    Authority to Revoke License:** Pursuant to RCW 19.146.220(2)(b)(ii) and (iii), and WAC 208-660-  
24    160(1), and (13), the Director may revoke a license if a licensee fails to comply with any directive or order of  
25    the Director.

1 **2.4 Authority to Impose Fine:** Pursuant to RCW 19.146.220(2)(c)(ii) and WAC 208-660-165, the Director  
2 may impose fines on a licensee that fails to comply with any directive or order of the Director.

3 **2.5 Authority to Prohibit from the Industry:** Pursuant to RCW 19.146.220(2)(e)(iv), the Director may  
4 prohibit from participation in the conduct of the affairs of a licensed mortgage broker, any officer, principal,  
5 employee, or loan originator of any licensed mortgage broker or any person subject to licensing under the Act  
6 that fails to comply with any directive or order of the Director.

7 **2.6 Authority to Charge Investigation Fee:** Pursuant to RCW 19.146.228(2), WAC 208-660-060(4) and  
8 WAC 208-660-061, upon completion of any investigation of the books and records of a licensee, the Department  
9 will furnish to the licensee a billing to cover the cost of the investigation. The investigation charge will be  
10 calculated at the rate of forty-seven dollars and seventy-eight cents (\$47.78) per hour that each staff person devoted  
11 to the investigation.

### 12 **III. NOTICE OF INTENTION TO ENTER ORDER**

13 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth  
14 in the above Tentative Findings of Fact and Tentative Conclusions of Law, constitute a basis for the entry of an  
15 Order under RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223. Therefore, it is the Director's intention to  
16 ORDER that:

17 3.1 Respondent Golden Pacific Homes' licenses to conduct the business of a Mortgage Broker be  
18 revoked;

19 3.2 Respondent Tammy L. Meyer be prohibited from participation in the conduct of the affairs of any  
20 licensed mortgage broker, in any manner, for a period of five (5) years;

21 3.3 Respondents jointly and severally pay a fine of \$3000 for failure to comply with a directive,  
22 calculated at \$100.00 per day for 30 days; and

23 3.4 Respondents jointly and severally pay an investigation fee in the amount of \$286.68 calculated at  
24 \$47.78 per hour for six (6) staff hours devoted to the investigation; and

25 3.5 Respondents maintain records in compliance with the Act and provide the Department with the  
location of the books, records and other information relating to Respondent's mortgage broker  
business, and the name, address and telephone number of the individual responsible for  
maintenance of such records in compliance with the Act.

1 **IV. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke Licenses, Impose Fine and  
3 Collect Investigation Fee, and Prohibit from Participation in the Industry is entered pursuant to the provisions of  
4 RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions  
5 of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may make a written request for a  
6 hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR  
7 HEARING accompanying this Statement of Charges.

8  
9  
10 Dated this 1st day of September, 2004.

11  
12 /s/

13 CHUCK CROSS  
14 Acting Director and Enforcement Chief  
Division of Consumer Services  
Department of Financial Institutions

15 Presented by:  
16 Deborah Bortner  
Financial Legal Examiner

## Applicable Sections of the Revised Code of Washington

### **RCW 19.146.220 Director -- Powers and duties -- Violations as separate violations -- Rules.**

- (1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to mortgage brokers, and hold hearings.
- (2) The director may impose the following sanctions:
- (a) Deny applications for licenses for: (i) Violations of orders, including cease and desist orders issued under this chapter; or (ii) any violation of RCW 19.146.050 or 19.146.0201 (1) through (9);
  - (b) Suspend or revoke licenses for:
    - (i) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;
    - (ii) Failure to pay a fee required by the director or maintain the required bond;
    - (iii) Failure to comply with any directive or order of the director; or
    - (iv) Any violation of RCW 19.146.050, 19.146.060(3), 19.146.0201 (1) through (9) or (12), 19.146.205(4), or 19.146.265;
  - (c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:
    - (i) Any violations of RCW 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or
    - (ii) Failure to comply with any directive or order of the director;
  - (d) Issue orders directing a licensee, its employee or loan originator, or other person subject to this chapter to:
    - (i) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter; or
    - (ii) Pay restitution to an injured borrower; or
  - (e) Issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this chapter for:
    - (i) Any violation of 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or
    - (ii) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;
    - (iii) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or
    - (iv) Failure to comply with any directive or order of the director.
- (3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.
- (4) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions.
- (5) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a \*residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

### **RCW 19.146.221 Action by director -- Hearing -- Sanction.**

The director may, at his or her discretion and as provided for in \*RCW 19.146.220(2), take any action specified in RCW 19.146.220(1). If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action then the person shall be deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter.

### **RCW 19.146.223 Director -- Administration and interpretation.**

The director shall have the power and broad administrative discretion to administer and interpret the provisions of this chapter to fulfill the intent of the legislature as expressed in RCW 19.146.005.

**RCW 19.146.228 Fees -- Rules -- Exception.**

The director shall establish fees by rule in accordance with RCW 43.24.086 sufficient to cover, but not exceed, the costs of administering this chapter. These fees may include:

- (1) An annual assessment paid by each licensee on or before a date specified by rule;
- (2) An investigation fee to cover the costs of any investigation of the books and records of a licensee or other person subject to this chapter; and . . .

**RCW 19.146.230 Administrative procedure act application.**

The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking licenses, and imposing civil penalties or other remedies issued pursuant to this chapter and any appeal therefrom or review thereof shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW.

**RCW 19.146.235 Director -- Investigation powers -- Duties of person subject to examination or investigation.**

For the purposes of investigating complaints arising under this chapter, the director may at any time, either personally or by a designee, examine the business, including but not limited to the books, accounts, records, and files used therein, of every licensee and of every person engaged in the business of mortgage brokering, whether such a person shall act or claim to act under or without the authority of this chapter. For that purpose the director and designated representatives shall have access during regular business hours to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all such persons.

The director or designated person may direct or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any such examination or investigation, and may direct or order such person to produce books, accounts, records, files, and any other documents the director or designated person deems relevant to the inquiry. If a person who receives such a directive or order does not attend and testify, or does not produce the requested books, records, files, or other documents within the time period established in the directive or order, then the director or designated person may issue a subpoena requiring attendance or compelling production of books, records, files, or other documents. No person subject to examination or investigation under this chapter shall withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

Once during the first two years of licensing, the director may visit, either personally or by designee, the licensee's place or places of business to conduct a compliance examination. The director may examine, either personally or by designee, a sample of the licensee's loan files, interview the licensee or other designated employee or independent contractor, and undertake such other activities as necessary to ensure that the licensee is in compliance with the provisions of this chapter. For those licensees issued licenses prior to March 21, 1994, the cost of such an examination shall be considered to have been prepaid in their license fee. After this one visit within the two-year period subsequent to issuance of a license, the director or a designee may visit the licensee's place or places of business only to ensure that corrective action has been taken or to investigate a complaint.

**Applicable Sections of the Washington Administrative Code**

**WAC 208-660-060 Department's fees and assessments.**

. . .

(3) Each licensee shall pay to the director an annual assessment of \$513.95 for each license, and \$513.95 for each branch office certificate. The annual assessment(s) will be due no later than the last business day of the month in which the anniversary date of the issuance of the broker's license occurs.

(4) Upon completion of any investigation of the books and records of a mortgage broker other than a licensee, the department will furnish to the broker a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of \$46.26 per hour that each staff person devoted to the investigation. The investigation billing will be paid by the mortgage broker promptly upon receipt.

**WAC 208-660-061 Fee increase.**

The division intends to increase its fee and assessment rates each year for several bienniums. The division intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual increase in the rate of fees and assessments each fiscal year during the 2001-03 biennium.

(1) On July 1, 2002, the fee and assessment rates under WAC 208-660-060, as increased in the prior fiscal year, will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, fiscal growth factor has the same meaning as the term is defined in RCW 43.135.025.

(2) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed the applicable fiscal growth factor.

(3) By June 1 of each year, the director will make available a chart of the new rates that will take effect on the immediately following July 1.

**WAC 208-660-140 General recordkeeping requirements.**

(1) Each mortgage broker shall retain its books and records for a minimum of twenty-five months after the effective period to which the books and records relate.

However, books and records relating to a specific loan application must be maintained for a minimum of twenty-five months after a loan application is received. These books and records must be retained in all cases where a loan application has been received, any deposits or fees associated with a mortgage application have been accepted, or any written agreement has been executed.

(2) All books and records must be kept in a location in this state that is readily accessible to the department. However, a mortgage broker may store its books and records outside the state with the prior approval of the director, and after executing a written agreement with the director:

- (a) To provide access to its books and records to investigate complaints against the mortgage broker; and
- (b) To pay the department's travel, lodging and per diem expenses incurred in travel to examine books and records stored out-of-state.

(3) Books and records include without limitation: The original contracts for the broker's compensation, an accounting of all funds received in connection with loans, a copy of the settlement statements as provided to borrowers, a record of any fees refunded to applicants for loans that did not close, copies of the good faith estimates and all other written disclosures, and all other correspondence, papers or records relating to loan applications.

**WAC 208-660-150 Disclosure of significant developments.**

(1) A licensee must notify the director in writing within thirty days after the occurrence of any of the following developments:

- (a) Licensee's filing for bankruptcy or reorganization.
- (b) Receipt of notification of license revocation procedures in any state against the licensee.
- (c) The filing of a felony indictment or information related to mortgage brokering activities of the licensee, or any officer, director, principal, or designated broker of the licensee.
- (d) The licensee, or any officer, director, principal, or designated broker of the licensee being convicted of a felony.
- (e) Receipt of notification of cancellation of the licensee's surety bond or approved alternative, or any significant decline in value of an approved alternative held by the director.
- (f) The filing of any material litigation against the licensee.

(2) A licensee must notify the director in writing ten days prior to a change of the location of the licensee's principal place of business or any of its branch offices.

(3) A licensee must notify the director in writing within five days after a change in the licensee's:

- (a) Name or legal status (e.g., from sole proprietor to corporation, etc.);
- (b) Mailing address or telephone number;
- (c) President, partner, designated broker, or branch office manager;
- (d) Trust account (e.g., change in the status, location, or account number);
- (e) State master business license; or

(f) Standing with the state of Washington secretary of state.

**WAC 208-660-160 License application denial or condition; license suspension or revocation.**

The director may deny or condition approval of a license application, or suspend or revoke a license if the applicant or licensee, or any principal or designated broker of the applicant or licensee:

(1) Has failed to pay a fee due to the state in accordance with the Mortgage Broker Practices Act;

...

(13) Has failed to comply with an order, directive, or requirement of the director, or his or her designee, or with an assurance of discontinuance entered into with the director, or his or her designee;

...

**WAC 208-660-165 Fines and penalties for violation of the Mortgage Broker Practices Act.**

Each mortgage broker and each of its principals, designated brokers, officers, employees, independent contractors, and agents shall comply with the applicable provisions of the Mortgage Broker Practices Act. Each violation of any applicable provision of the Mortgage Broker Practices Act, or of any order, directive, or requirement of the director may, at the discretion of the director, subject the violator to a fine of up to one hundred dollars for each offense. Each day's continuance of the violation is a separate and distinct offense. In addition, the director in his or her discretion may by order assess other penalties for a violation of the Mortgage Broker Practices Act.